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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/943,750	08/30/2001	Charles A. Howland	W0490/7026 RJP	8463
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EXAMINER FISCHER, JUSTIN R				
ART UNIT		PAPER NUMBER		
1733				

DATE MAILED: 11/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/943,750

Applicant(s)

HOWLAND ET AL.

Examiner

Justin R Fischer

Art Unit

1733

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 October 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☒ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☒ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 27-31,33,35,36,40-44 and 47-52.

Claim(s) withdrawn from consideration: 1-8,12-14,17,19-21,23-26 and 53.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_.


**Continuation of 2:** The proposed amendment includes a new claim while failing to cancel an equivalent amount of pending claims. Furthermore, new claim 134 is directed to the specific structure of the tire anti-puncture device (required to be a continuous annular layer)- the previous claims, however, were completely silent with respect to the structure of the device and such, the proposed claim would require further search and consideration.

**Continuation of 5:** The declaration under 37 CFR 1.132 filed October 22, 2004 is insufficient to overcome the rejection of claims 27-31, 33, 35, 36, 40-44, and 47-52 based upon McGee as set forth in the last Office action because: the experimental results are not commensurate in scope with the claimed invention. In particular, while the results suggest improved puncture resistance as a result of "saturating" a given fabric (as opposed to coating but not saturating), the claim as currently drafted only requires that the coating "penetrates into and occupies at least a portion of the void space between fibers forming the fabric". This language is not seen to require the "saturation" disclosed in the above noted declaration. It is further noted that "saturation coating" is seen to be a specific form of the generic coating outlined by the claim as currently drafted (further evidence of this relationship is set forth on Page 15, Lines 10-15 of the original disclosure).

Regarding Harpell '574, the reference is solely provided to evidence the well-known use of epoxy coatings having a modulus below 10,000 psi. Additionally, while Harpell is directed to ant-ballistic articles, McGee specifically states that anti-ballistic materials are suitable, and preferred, for his anti-puncture device. It is further noted that McGee specifically points to multiple Harpell patents when describing suitable fabric materials.

  
Justin Fischer

November 5, 2004

  
BLAINE COPENHEAVER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700